



Atty. Docket No. WHI06 P-302

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CERTIFICATE OF MAILING

I hereby certify that this paper, together with all enclosures identified herein, are being deposited with the United States Postal Service as first class mail, addressed to the Mail Stop Appeal Brief - Patents, Commissioner for Patents, P.O. Box 1450, Alexandria, Virginia 22313-1450, on the date indicated below.

August 11, 2005  
Date

Melanie S. Jernberg  
Melanie S. Jernberg

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE  
BEFORE THE BOARD OF PATENT APPEALS AND INTERFERENCES

Art Unit : 2859  
Examiner : Amy R. Cohen  
Applicants : Sharon K. Ernst et al.  
Appln. No. : 10/627,139  
Filing Date : July 25, 2003  
Confirmation No. : 3917  
For : PLAQUE WITH ALIGNMENT AND ATTACHMENT  
SYSTEM FOR SYMBOLS

Mail Stop Appeal Brief - Patents  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, Virginia 22313-1450

TRANSMITTAL OF APPEAL BRIEF  
(PATENT APPLICATION - 37 CFR §41.37)

1. Transmitted herewith is the APPEAL BRIEF in this application, with respect to the Notice of Appeal filed on June 16, 2005.

2. **STATUS OF APPLICANTS**

This application is on behalf of:

\_\_\_ other than a small entity.

x a small entity.

3. **FEE FOR FILING APPEAL BRIEF**

Pursuant to 35 USC §41(a)(6), the fee for filing the Appeal Brief is:

x small entity \$250.00

\_\_\_ other than a small entity \$500.00

Appeal Brief fee due: \$250.00

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4. EXTENSION OF TERM

The proceedings herein are for a patent application and the provisions of 35 USC §41(a)(8) apply.

*(complete (a) or (b), as applicable)*

(a) \_\_\_ Applicant petitions for an extension of time under 37 CFR §1.136:

| <u>Extension<br/>(months)</u> | <u>Fee for other than<br/>small entity</u> | <u>Fee for<br/>small entity</u> |
|-------------------------------|--|---------------------------------|
| ___ one month                 | \$120.00                                   | \$60.00                         |
| ___ two months                | \$450.00                                   | \$225.00                        |
| ___ three months              | \$1020.00                                  | \$510.00                        |
| ___ four months               | \$1590.00                                  | \$795.00                        |
| ___ five months               | \$2160.00                                  | \$1080.00                       |

FEE: \$

If an additional extension of time is required, please consider this a petition therefor.

*(check and complete the next item, if applicable)*

\_\_\_ An extension for \_\_\_ months has already been secured, and the fee paid therefor of \$\_\_\_ is deducted from the total fee due for the total months of extension now requested.

Extension fee due with this request: \$

*or*

(b) x Applicant believes that no extension of term is required. However, this conditional petition is being made to provide for the possibility that applicant has inadvertently overlooked the need for a petition and fee for extension of time.

5. TOTAL FEE DUE

The total fee due is:

Appeal Brief fee: \$250.00

Extension fee (if any) \$0

TOTAL FEE DUE: \$250.00

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**6. FEE PAYMENT**

  x   Attached is a check in the sum of \$250.00.

       Charge Account No. 16 2463 the sum of \$       .

A duplicate of this transmittal is attached.

**7. FEE DEFICIENCY**

  x   If any additional extension and/or fee is required, this is a request therefor  
and to charge Account No. 16 2463.

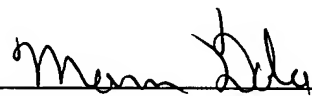
*and/or*

  x   If any additional fee for claims is required, charge Account No.  
16 2463.

Respectfully submitted,

Date

8/11/05

  
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APPEAL BRIEF (37 CFR §41.37)

This brief is in furtherance of the Notice of Appeal, filed in this case on June 16, 2005.

The fees required under 35 USC 41(a)(6), and any required petition for extension of time for filing this brief and fees therefor, are dealt with in the accompanying TRANSMITTAL OF APPEAL BRIEF.

This brief contains these items under the following headings, and in the order set forth below (37 CFR §41.37(c)):

- I. Real Party in Interest
- II. Related Appeals and Interferences
- III. Status of Claims
- IV. Status of Amendments
- V. Summary of Claimed Subject Matter
- VI. Grounds of Rejection to Be Reviewed on Appeal
- VII. Argument

Appendix of Claims Involved in the Appeal

Evidence Appendix (35 USC §41.37(c))

Related Proceedings Appendix (35 USC §41.37(c))

The final page of this brief bears the attorney's signature.

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Appendix of Claims Involved in the Appeal

Evidence Appendix

Related Proceedings Appendix

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## TABLE OF AUTHORITY

### Case Authority

|   |               |
|---|---------------|
| <i>In re Fine</i> ,<br>5 U.S.P.Q.2d 1586 (Fed. Cir. 1988) . . . . .                 | 9, 19, 22, 24 |
| <i>In re Merck &amp; Co., Inc.</i> ,<br>231 U.S.P.Q. 375 (Fed. Cir. 1986) . . . . . | 9, 19, 22, 24 |
| <i>In re Royka</i> ,<br>180 U.S.P.Q. 550 (C.C.P.A. 1974) . . . . .                  | 9, 19, 22, 24 |
| <i>In re Vaeck</i> ,<br>947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991) . . . . .     | 9, 19, 22, 24 |
| <i>In re Mills</i> ,<br>916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990) . . . . .     | 9, 19, 22, 25 |
| <i>In re Fritch</i> ,<br>23 USPQ 2d 1780, 1783 (Fed. Cir. 1992) . . . . .           | 9, 19, 23, 25 |

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**I. Real Party in Interest**

The real party in interest in this application is Whitehall Products, LLC, the assignment to which was recorded on July 25, 2003 at Reel 014356, Frame 0078.

**II. Related Appeals and Interferences**

There are no related appeals or interferences pending during this application.

**III. Status of Claims**

Claims 1-50 are pending in this application. Claims 10, 11, 21, 22, 32 and 33 have been indicated as being allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims. As discussed below, an Amendment After Appeal is being filed contemporaneously with this Appeal Brief wherein claims 10, 21 and 32 were rewritten into independent form. Claims 11, 22 and 33 depend from claims 10, 21 and 32, respectively. Accordingly, claims 10, 11, 21, 22, 32 and 33 are now believed to be allowed. Claims 1-9, 12-20, 23-31 and 34-50 are the subject of this appeal.

**IV. Status of Amendments**

An Amendment After Appeal is being filed contemporaneously with this Appeal Brief, in which claims 10, 21 and 32 were amended to be in independent form.

**V. Summary of Claimed Subject Matter**

As described in the specification portion of the application (pages 1-8), and illustrated in the related figures (FIGS. 1-5), the invention recited in the finally rejected claims relates to a plaque with an alignment and attachment system for adding symbols to the plaque.

An aspect of the present invention is to provide a sign system assembly 10 comprising a frame 12 having a face 14 and a template 16 adapted to fit against the face 14 in an accurate position thereon. The template 16 has an opening 22 therethrough and a scale 24 thereon. At least one alphanumeric locator 18 is configured to fit within the opening 22 of the template 16 and be properly located in position by aligning a portion of the at least one alphanumeric

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locator 18 with the scale 24 of the template 16. The at least one alphanumeric locator 18 has an aperture 26 therethrough. The sign system assembly 10 also includes an alphanumeric symbol 20 for each alphanumeric locator 18, with each alphanumeric symbol 20 having an adhesive backing. Each aperture 26 has a perimeter 30 corresponding to a periphery 32 of at least one alphanumeric symbol 20 and wherein the alphanumeric symbol 20 can be accurately positioned on the face 14 of the frame 12 by inserting the alphanumeric symbol 20 through the aperture 26 having the corresponding perimeter 30 and adhering the alphanumeric symbol 20 to the face 14 of the frame 12.

Another aspect of the present invention is to provide a sign making system assembly 10 for a frame 12 having a face 14 comprising a template 16 adapted to fit against the face 14 in an accurate position thereon, with the template 16 having an opening 22 therethrough and a scale 24 thereon. At least one alphanumeric locator 18 is configured to fit within the opening 22 of the template 16 and be properly located in position by aligning a portion of the at least one alphanumeric locator 18 with the scale 24 of the template 16, with the at least one alphanumeric locator 18 having an aperture 26 therethrough. The sign making system assembly 10 also includes an alphanumeric symbol 20 for each alphanumeric locator 18, with each alphanumeric symbol 20 having an adhesive backing. Each aperture 26 has a perimeter 30 corresponding to a periphery 32 of at least one alphanumeric symbol 20. The alphanumeric symbol 20 can be accurately positioned on the face 14 of the frame 12 by inserting the alphanumeric symbol 20 through the aperture 26 having the corresponding perimeter 30 and connecting the alphanumeric symbol 20 to the face 14 of the frame 12.

Yet another aspect of the present invention is to provide a sign making system assembly 10 for placing alphanumeric symbols 20 on a frame 12 having a face 14 comprising a template 16 adapted to fit against the face 14 of the frame 12 in an accurate position thereon, with the template 16 having an opening 22 therethrough and a scale 24 thereon. At least one alphanumeric locator is configured to fit within the opening 22 of the template 16 and be properly located in position by aligning a portion of the at least one alphanumeric locator 18 with the scale of the template 16, with the at least one alphanumeric locator 18 having an aperture 26 therethrough. Each aperture 26 has a perimeter 30 configured to correspond to a



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periphery 32 of at least one alphanumeric symbol 20. The alphanumeric symbol 20 can be accurately positioned on the face 14 of the frame 12 by inserting the alphanumeric symbol 20 through the aperture 26 having the corresponding perimeter 30 and connecting the alphanumeric symbol 20 to the face 14 of the frame 12.

A further aspect of the present invention is to provide a method of accurately making a sign 10 comprising providing a frame 12 having a face 14, providing a template 16 with a scale 24 thereon, providing an opening 22 through the template 16, placing the template 16 in position against the face 14 of the frame 12, providing at least one alphanumeric locator 18, with the at least one alphanumeric locator 18 having an aperture 26 therethrough, locating the at least one alphanumeric locator 18 within the opening 22 of the template 16 and aligning a portion of the at least one alphanumeric locator 18 with the scale 24 of the template 16 to accurately position the at least one alphanumeric locator 18. The method also includes providing an alphanumeric symbol 20 for each alphanumeric locator 18, with each alphanumeric symbol 20 having a periphery 32 corresponding to a perimeter 30 of the aperture 26 of one of the at least one alphanumeric locator 18, inserting the alphanumeric symbol 20 through the aperture 26 in one of the at least one alphanumeric locator 18, and connecting each alphanumeric symbol 20 to the face of the frame 12.

Another aspect of the present invention is to provide a method of accurately making a sign 10 with a frame 12 having a face 14, the method comprising providing a template 16 with a scale thereon, providing an opening 22 through the template 16, placing the template 16 in position against the face of the frame 12, and providing at least one alphanumeric locator 18. The at least one alphanumeric locator 18 has an aperture therethrough. The method also includes locating the at least one alphanumeric locator 18 within the opening 22 of the template 16 and aligning a portion of the at least one alphanumeric locator 18 with the scale 24 of the template 16 to accurately position the at least one alphanumeric locator 18 and providing an alphanumeric symbol 20 for each alphanumeric locator 18. Each alphanumeric symbol 20 has a periphery 32 corresponding to a perimeter 30 of the aperture 26 of one of the at least one alphanumeric locator 18. The method also includes inserting the alphanumeric symbol 20

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through the aperture 26 in one of the at least one alphanumeric locator 18, and connecting each alphanumeric symbol 20 to the face 14 of the frame 12.

Yet another aspect of the present invention is to provide a method of accurately aligning at least one alphanumeric symbol 20 on a face 14 of a frame 12 to make a sign 10, the method comprising providing a template 16 with a scale 24 thereon, providing an opening 22 through the template 16, and placing the template 16 in position against the face 14 of the frame 12. The method also includes providing at least one alphanumeric locator 18, with the at least one alphanumeric locator 18 having an aperture therethrough, locating the at least one alphanumeric locator 18 within the opening 22 of the template 16 and aligning a portion of the at least one alphanumeric locator 18 with the scale 24 of the template 16 to accurately position the at least one alphanumeric locator 18, providing each aperture 26 with a perimeter 30 corresponding to a periphery 32 of at least one alphanumeric symbol 20, inserting the alphanumeric symbol 20 through the aperture 26 in one of the at least one alphanumeric locator 18, and connecting the at least one alphanumeric symbol 20 to the face 14 of the frame 12.

## **VI. Grounds of Rejection to Be Reviewed on Appeal**

Claims 1-3, 5-9, 13, 14, 16-20, 24, 25, 27-31, 34, 36 and 38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over U.S. Patent No. 4,172,331 to Becker (hereinafter referred to as “the Becker ‘331 patent”) in view of U.S. Patent No. 2,387,986 to Evans (hereinafter referred to as “the Evans ‘986 patent”).

Claims 4, 15 and 26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Becker ‘331 patent in view of the Evans ‘986 patent and U.S. Patent No. 5,918,398 to Stanley et al. (hereinafter referred to as “the Stanley et al. ‘398 patent”).

Claims 12, 23, 35 and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Becker ‘331 patent in view of the Evans ‘986 patent and U.S. Patent No. 3,956,838 to Gerrish (hereinafter referred to as “the Gerrish ‘838 patent”).

Claims 39-50 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Becker ‘331 patent in view of the Evans ‘986 patent and U.S. Patent No. 3,584,385 to Booth (hereinafter referred to as “the Booth ‘385 patent”).

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## VII. Argument

### A. Rejection of Claims 1-3, 5-9, 13, 14, 16-20, 24, 25, 27-31, 34, 36 and 38 under 35 U.S.C. §103(a) as Being Unpatentable Over U.S. Patent No. 4,172,331 to Becker in View of U.S. Patent No. 2,387,986 to Evans

Claims 1-3, 5-9, 13, 14, 16-20, 24, 25, 27-31, 34, 36 and 38 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Becker '331 patent in view of the Evans '986 patent. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

In order to establish a *prima facie* case of obviousness, three criteria must be met. M.P.E.P. § 706.02(j). Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP §2143.01 provides further guidance as to what is necessary in showing that there was motivation known in the prior art to modify a reference teaching. Specifically, MPEP §2143.01 states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a *prima facie* case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not yet met the Examiner's burden of establishing a *prima facie* case of

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obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

#### Claims 1 and 5-9

Claim 1 defines a sign system assembly comprising a frame having a face and a template adapted to fit against the face in an accurate position thereon. The template has an opening therethrough and a scale thereon. At least one alphanumeric locator is configured to fit within the opening of the template and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template. The at least one alphanumeric locator has an aperture therethrough. The sign system assembly also includes an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having an adhesive backing. Each aperture has a perimeter corresponding to a periphery of at least one alphanumeric symbol and wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and adhering the alphanumeric symbol to the face of the frame.

The prior art of record does not disclose or suggest the above noted features of claims 1. In regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. The present Office Action has combined the Becker '331 patent with the Evans '986 patent to reject the present claims. The Becker '331 patent is drawn to a display apparatus for personalizing a vehicle to allow an owner of the vehicle to place words on the vehicle. The Evans '986 patent is drawn to a device for positioning insignia on an Army officer's blouse.

According to the Office Action, the Becker '331 patent includes all of the features of claim 1, except for a template having a scale thereon. Furthermore, according to the Office Action, the Evans '986 patent includes "a template (1) comprising a scale (2, 5) thereon." Paragraph 2, Page 3 of the Office Action mailed May 23, 2005. Moreover, according to the Office Action:

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify the sign system assembly of Becker to include a

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scale thereon, as taught by Evans, so that the alphanumeric locators could be placed at spaced intervals along the template and so that the user would be able to measure the distance between each of the alphanumeric locators, between the edges of the template and the alphanumeric locators, and between the center of the template and the alphanumeric locators.

Paragraph 2, Page 4 of the Office Action mailed May 23, 2005.

However, there is no suggestion or motivation for adding the graduations 2 or 5 of the Evans '986 patent to the Becker '331 patent. First, the Evans '986 patent discloses the function of the graduations 2. According to the Evans '986 patent:

The graduations 2 at the upper edge of the device constitute a rule which may be used to locate the insignia of rank, arm or service on the head gear, the shirt collar or the shoulder loop on the shirt, blouse or overcoat of an Army officer's uniform. The method of use of such a rule, obviously, need not be described, since this is merely a matter of measurement from a particular point on the garment to which such insignia is to be applied.

Page 2, column 1, lines 27-36. The graduations 5 are used for the same reasons. The Evans '986 patent goes on to state that the member 1 having the graduations 2, 5 thereon is transparent such that the lapel 10 of the dress of the Army officer can be seen through the member 1 and aligned with the graduations 2 and 5 to properly position the openings 6, 8 (for receiving the insignia 12, 13) on the lapel 10. Therefore, the Evans '986 patent does not teach that the graduations 2 and 5 are for positioning the insignia 12, 13 in the openings 6, 8, but for aligning the openings 6, 8 with the lapel 10. Accordingly, the Evans '986 patent only includes graduations for properly aligning the device on a head gear, shirt collar or shoulder loop on a shirt, blouse or overcoat of an Army officer's uniform. However, since the Becker '331 patent does not include any such uniform, there is no reason for adding the graduations 2 or 5 to the Becker '331 patent as set forth in the Office Action. Furthermore, since the template 66 of the Becker '331 patent is not transparent, adding graduations 2 or 5 from the Evans '986 patent to the Becker '331 patent would serve no purpose as the graduations 2 or 5 would not be able to be aligned with anything placed under the template. Therefore, contrary to the assertion in the Office Action that the Evans '986 patent is used to "teach having a scale on a template adjacent the opening, wherein the scale is used to align an object within the opening and with a

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relationship to the center of the template and the side of the template,” the Evans ‘986 patent does teach that the graduations 2 and 5 are used in any such manner.

Second, according to the Office Action, the Becker ‘331 patent includes a template 66 in Fig. 5a having the openings 68. As also shown in Fig. 5a, the openings 68 can only fit one guide 70 therein, and the guides 70 are not allowed to move within the openings 68 because of the relative size between the two. Accordingly, since a distance between each of the guides 70 are fixed, there is no reason for measuring the distance between the guides 70, between edges of the template body 66 and the guides 70 or between a center of the template 66 and the guides 70. All of these items have discrete and set positions such that any scale thereon would not serve any purpose.

Finally, as discussed above, the teaching or suggestion to make a claimed combination must be found in the prior art, not in Applicants’ disclosure, and Applicants submit that the motivation set forth in the Office Action is only taken from Applicants’ disclosure. Namely, a motivation for combining the Becker ‘331 patent and the Evans ‘986 patent by placing “the alphanumeric locators . . . at spaced intervals along the template . . . so that the user would be able to measure the distance between each of the alphanumeric locators, between the edges of the template and the alphanumeric locators, and between the center of the template and the alphanumeric locators” can only be found in Applicants’ disclosure, as such a motivation is not found in the Becker ‘331 patent, the Evans ‘986 patent or in the knowledge generally available to one of ordinary skill in the art.

Therefore, since the Evans ‘986 patent does not teach that the graduations 2 and 5 are used as a scale on a template adjacent an opening with the scale being used to align an object within the opening and with a relationship to the center of the template and the side of the template, since the guides 70 of the Becker ‘331 patent have only set positions within the template 66 such that any scale on the template 66 would serve no purpose, and since the teaching or suggestion to make a claimed combination must be found in the prior art, not in Applicant’s disclosure, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. Accordingly, claim 1 is in condition for allowance.

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Furthermore, in regard to the third criterion of obviousness, the prior art of record does not disclose or suggest all of the claimed features of claim 1. Specifically, the Becker '331 patent does not disclose a frame having a face. According to the Office Action, the Becker '331 patent discloses "a frame (14) having a face (12)." Paragraph 2, Page 2 of the Office Action mailed May 23, 2005. The frame 12 and the base member 14 of the Becker '331 patent are disclosed and discussed in regard to FIGS. 1A-4, which illustrate a first embodiment of the apparatus of the Becker '331 patent. However, the Office Action then goes on to reject claim 1 by saying the Becker '331 patent includes "a template (66)" having "an opening (68)," "at least one alphanumeric locator (70)" having "an aperture (74)" and an "alphanumeric symbol (84)," which are all part of the second embodiment of the apparatus of the Becker '331 patent. Furthermore, the second embodiment of the apparatus of the Becker '331 patent is "particularly suited to the direct application of letters to the base member." Lines 66-68 of column 5 of the Becker '331 patent. Hence, the second embodiment of the Becker '331 patent is used without the frame 14. Accordingly, the Becker '331 patent does not disclose a frame 14 used along with the elements 66, 68, 70, 74 and 84 of the Becker '331 patent. Therefore, the Becker '331 patent does not disclose all of the features of claim 1 in a single embodiment, even when combined with the Evans '986 patent. Accordingly, claim 1 is in condition for allowance.

Claims 5-9 depend from claim 1, and since claim 1 defines patentable subject matter as discussed above, claims 5-9 define patentable subject matter. Accordingly, claims 5-9 are in condition for allowance.

## Claim 2

Claim 2 depends from claim 1 and further defines the frame as including a ridge extending from the face of the frame, with the template being adapted to abut against the ridge to be fixed in position on the face of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 2. First, claim 2 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 2 defines patentable subject matter. Second, the prior art of

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record does not disclose or suggest a frame including a ridge extending from a face of a frame and the remaining features of claim 2. Since the Becker '331 patent does not disclose a frame and all of the features as claimed in claim 1 as discussed above in regard to claim 1, the Becker '331 patent does not include a frame including a ridge extending from a face of a frame. Accordingly, claim 2 is in condition for allowance.

### Claim 3

Claim 3 depends from claims 1 and 2 and further defines the ridge as defining a closed border.

The prior art of record does not disclose or suggest the above noted features of claim 3. First, claim 3 depends from claims 1 and 2, and since claims 1 and 2 define unobvious patentable subject matter as discussed above, claim 3 defines patentable subject matter. Second, the prior art of record does not disclose or suggest a frame including a ridge defining a close border and the remaining features of claim 3. Since the Becker '331 patent does not disclose a frame and all of the features as claimed in claims 1 and 2 as discussed above in regard to claims 1 and 2, the Becker '331 patent does not include a frame having a ridge defining a closed border. Accordingly, claim 3 is in condition for allowance.

### Claims 13, 14 and 16-20

Claim 13 defines a sign making system assembly for a frame having a face comprising a template adapted to fit against the face in an accurate position thereon, with the template having an opening therethrough and a scale thereon. At least one alphanumeric locator is configured to fit within the opening of the template and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template. The at least one alphanumeric locator has an aperture therethrough. The sign making system assembly also includes an alphanumeric symbol for each alphanumeric locator, with each alphanumeric symbol having an adhesive backing. Each aperture has a perimeter corresponding to a periphery of at least one alphanumeric symbol, wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric



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symbol through the aperture having the corresponding perimeter and connecting the alphanumeric symbol to the face of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 13. Specifically, in regard to the first criterion of obviousness, there is no suggestion or motivation for combining the Becker '331 patent with the Evans '986 patent as discussed above with regard to claim 1. Accordingly, claim 13 is in condition for allowance.

Claims 14 and 16-20 depend from claim 13, and since claim 13 defines patentable subject matter as discussed above, claims 14 and 16-20 define patentable subject matter. Accordingly, claims 14 and 16-20 are in condition for allowance.

#### Claim 24, 25 and 27-31

Claim 24 defines a sign making system assembly for placing alphanumeric symbols on a frame having a face. The system comprises a template adapted to fit against the face of the frame in an accurate position thereon, with the template having an opening therethrough and a scale thereon. At least one alphanumeric locator is configured to fit within the opening of the template and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template, with the at least one alphanumeric locator having an aperture therethrough. Each aperture has a perimeter configured to correspond to a periphery of at least one alphanumeric symbol, wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and connecting the alphanumeric symbol to the face of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 24. Specifically, in regard to the first criterion of obviousness, there is no suggestion or motivation for combining the Becker '331 patent with the Evans '986 patent as discussed above in regard to claim 1. Accordingly, claim 24 is in condition for allowance.

Claims 25 and 27-31 depend from claim 24, and since claim 24 defines patentable subject matter as discussed above, claims 25 and 27-31 define patentable subject matter. Accordingly, claims 25 and 27-31 are in condition for allowance.

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#### Claim 34

Claim 34 defines a method of accurately making a sign comprising providing a frame having a face, providing a template with a scale thereon, providing an opening through the template, placing the template in position against the face of the frame, providing at least one alphanumeric locator, the at least one alphanumeric locator having an aperture therethrough, locating the at least one alphanumeric locator within the opening of the template and aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator. The method also includes providing an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having a periphery corresponding to a perimeter of the aperture of one of the at least one alphanumeric locator, inserting the alphanumeric symbol through the aperture in one of the at least one alphanumeric locator, and connecting each alphanumeric symbol to the face of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 34. Specifically, in regard to the first criterion of obviousness, there is no suggestion or motivation for combining the Becker '331 patent with the Evans '986 patent as discussed above with regard to claim 1. Accordingly, claim 34 is in condition for allowance.

Furthermore, in regard to the third criterion of obviousness, the prior art of record does not disclose or suggest all of the above noted features of claim 34. Specifically, the prior art of record does not disclose providing a frame having a face or aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator. First, as discussed above in regard to claim 1, the prior art of record does not disclose or suggest a frame having a face along with a template having an opening, at least one alphanumeric locator having an aperture and an alphanumeric symbol. Second, the prior art of record does not disclose aligning a portion of at least one alphanumeric locator with a scale of a template to accurately position the at least one alphanumeric locator. Since the openings 68 in the Becker '331 patent can only fit one guide 70 therein and the guides 70 are not allowed to move within the openings 68 because of the relative size between the two, the Becker '331 patent does not disclose aligning a portion of at least one alphanumeric locator with a scale of a template to accurately position the at least one alphanumeric locator as

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claimed in claim 34, even when combined with the Evans '986 patent. Accordingly, claim 34 is in condition for allowance.

#### Claim 36

Claim 36 defines a method of accurately making a sign with a frame having a face, the method comprising providing a template with a scale thereon, providing an opening through the template, placing the template in position against the face of the frame, and providing at least one alphanumeric locator. The at least one alphanumeric locator has an aperture therethrough. The method also includes locating the at least one alphanumeric locator within the opening of the template and aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator and providing an alphanumeric symbol for each alphanumeric locator. Each alphanumeric symbol has a periphery corresponding to a perimeter of the aperture of one of the at least one alphanumeric locator. The method also includes inserting the alphanumeric symbol through the aperture in one of the at least one alphanumeric locator, and connecting each alphanumeric symbol to the face of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 36. Specifically, in regard to the first criterion of obviousness, there is no suggestion or motivation for combining the Becker '331 patent with the Evans '986 patent as discussed above with regard to claim 1. Accordingly, claim 36 is in condition for allowance.

Furthermore, in regard to the third criterion of obviousness, the prior art of record does not disclose or suggest all of the above noted features of claim 36. Specifically, the prior art of record does not disclose aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator. Since the openings 68 in the Becker '331 patent can only fit one guide 70 therein and the guides 70 are not allowed to move within the openings 68 because of the relative size between the two, the Becker '331 patent does not disclose aligning a portion of at least one alphanumeric locator with a scale of a template to accurately position the at least one alphanumeric locator as

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claimed in claim 36, even when combined with the Evans '986 patent. Accordingly, claim 36 is in condition for allowance.

#### Claim 38

Claim 38 defines a method of accurately aligning at least one alphanumeric symbol on a face of a frame to make a sign, the method comprising providing a template with a scale thereon, providing an opening through the template, and placing the template in position against the face of the frame. The method also includes providing at least one alphanumeric locator, the at least one alphanumeric locator having an aperture therethrough, locating the at least one alphanumeric locator within the opening of the template and aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator, providing each aperture with a perimeter corresponding to a periphery of at least one alphanumeric symbol, inserting the alphanumeric symbol through the aperture in one of the at least one alphanumeric locator, and connecting the at least one alphanumeric symbol to the face of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 38. Specifically, in regard to the first criterion of obviousness, there is no suggestion or motivation for combining the Becker '331 patent with the Evans '986 patent as discussed above with regard to claim 1. Accordingly, claim 38 is in condition for allowance.

Furthermore, in regard to the third criterion of obviousness, the prior art of record does not disclose or suggest all of the above noted features of claim 38. Specifically, the prior art of record does not disclose aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator. Since the openings 68 in the Becker '331 patent can only fit one guide 70 therein and the guides 70 are not allowed to move within the openings 68 because of the relative size between the two, the Becker '331 patent does not disclose aligning a portion of at least one alphanumeric locator with a scale of a template to accurately position the at least one alphanumeric locator as

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claimed in claim 38, even when combined with the Evans '986 patent. Accordingly, claim 38 is in condition for allowance.

**B. Rejection of Claims 4, 15 and 26 under 35 U.S.C. §103(a) as Being Unpatentable Over U.S. Patent No. 4,172,331 to Becker in View of U.S. Patent No. 2,387,986 to Evans and U.S. Patent No. 5,918,398 to Stanley et al.**

Claims 4, 15 and 26 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Becker '331 patent in view of the Evans '986 patent and the Stanley et al. '398 patent. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

In order to establish a *prima facie* case of obviousness, three criteria must be met. M.P.E.P. § 706.02(j). Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP §2143.01 provides further guidance as to what is necessary in showing that there was motivation known in the prior art to modify a reference teaching. Specifically, MPEP §2143.01 states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a *prima facie* case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ

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2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not yet met the Examiner's burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

#### Claim 4

Claim 4 depends from claim 3 and further defines the ridge as defining an oval interior space and the template as including an oval boundary corresponding to the oval interior space defined by the ridge of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 4. First, claim 4 depends from claims 1-3, and since claims 1-3 define unobvious patentable subject matter as discussed above, claim 4 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. According to the Office Action:

It would have been obvious to one of our ordinary skill at the time the invention was made to modify the sign assembly of Becker and Evans to be shaped as an oval ... as taught by Stanley et al., so that a use[r] could further customize the lettering design and to define additional areas in which to have alphanumeric symbols.

Paragraph 3, Page 11 of the Office Action mailed May 23, 2005. However, since the combination as set forth in the Office Action to reject claim 1 does not properly include a frame as discussed above in regard to claim 1, there is no motivation or suggestion for giving a template an oval shape. Moreover, since the guides 70 are removed from the system of the Becker '331 and Evans '986 patents when the letters 84 are positioned on the base member, there is no suggestion or motivation for making the guides 70 oval as such a change would not allow a user to "further customize the lettering design" or to "define additional areas in which to have alphanumeric symbols." Accordingly, claim 4 is in condition for allowance.

Third, in regard to the third criterion of obviousness, even if there was a suggestion or motivation for making the combination as set forth in the Office Action, such combination

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would not include all of the features of claim 4. Since the Becker '331 patent does not disclose a frame and all of the features as claimed in claims 1-3 as discussed above in regard to claims 1-3, the Becker '331 patent does not include a frame including a ridge extending from a face of a frame or an oval ridge. Accordingly, claim 4 is in condition for allowance.

#### Claim 15

Claim 15 depends from claim 14 and further defines the template as including an oval boundary configured to correspond to an oval interior space defined by the ridge of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 15. First, claim 15 depends from claims 13 and 14, and since claims 13 and 14 define unobvious patentable subject matter as discussed above, claim 15 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. As discussed above in regard to claim 4, since the guides 70 are removed from the system of the Becker '331 and Evans '986 patents when the letters 84 are positioned on the base member, there is no suggestion or motivation for making the guides 70 oval as such a change would not allow a user to "further customize the lettering design" or to "define additional areas in which to have alphanumeric symbols." Accordingly, claim 15 is in condition for allowance.

#### Claim 26

Claim 26 depends from claim 25 and further defines the template as including an oval boundary configured to correspond to an oval interior space defined by the ridge of the frame.

The prior art of record does not disclose or suggest the above noted features of claim 26. First, claim 26 depends from claims 24 and 25, and since claims 24 and 25 define unobvious patentable subject matter as discussed above, claim 26 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. As discussed above in regard

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to claim 4, since the guides 70 are removed from the system of the Becker '331 and Evans '986 patents when the letters 84 are positioned on the base member, there is no suggestion or motivation for making the guides 70 oval as such a change would not allow a user to "further customize the lettering design" or to "define additional areas in which to have alphanumeric symbols." Accordingly, claim 26 is in condition for allowance.

**C. Rejection of Claims 12, 23, 35 and 37 under 35 U.S.C. §103(a) as Being Unpatentable Over U.S. Patent No. 4,172,331 to Becker in View of U.S. Patent No. 2,387,986 to Evans and U.S. Patent No. 3,956,838 to Gerrish**

Claims 12, 23, 35 and 37 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Becker '331 patent in view of the Evans '986 patent and the Gerrish '838 patent. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

In order to establish a *prima facie* case of obviousness, three criteria must be met. M.P.E.P. § 706.02(j). Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP §2143.01 provides further guidance as to what is necessary in showing that there was motivation known in the prior art to modify a reference teaching. Specifically, MPEP §2143.01 states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).



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In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not yet met the Examiner's burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

#### Claim 12

Claim 12 depends from claim 1 and further defines the alphanumeric symbol as including double sided tape on a rear side thereof defining the adhesive backing. The prior art of record does not disclose or suggest the above noted features of claim 12. Specifically, claim 12 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 12 defines patentable subject matter. Accordingly, claim 12 is in condition for allowance.

#### Claim 23

Claim 23 depends from claim 13 and further defines the alphanumeric symbol for each alphanumeric locator as including double sided tape on a rear side thereof defining the adhesive backing. The prior art of record does not disclose or suggest the above noted features of claim 23. Specifically, claim 23 depends from claim 13, and since claim 13 defines unobvious patentable subject matter as discussed above, claim 23 defines patentable subject matter. Accordingly, claim 23 is in condition for allowance.

#### Claim 35

Claim 35 depends from claim 34 and further defines the method as including adhering double sided tape to the alphanumeric symbol. The prior art of record does not disclose or suggest the above noted features of claim 35. Specifically, claim 35 depends from claim 34, and since claim 34 defines unobvious patentable subject matter as discussed above, claim 35 defines patentable subject matter. Accordingly, claim 35 is in condition for allowance.

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### Claim 37

Claim 37 depends from claim 36 and further defines the method as including adhering double sided tape to the alphanumeric symbol. The prior art of record does not disclose or suggest the above noted features of claim 37. Specifically, claim 37 depends from claim 36, and since claim 36 defines unobvious patentable subject matter as discussed above, claim 37 defines patentable subject matter. Accordingly, claim 37 is in condition for allowance.

### **D. Rejection of Claims 39-50 under 35 U.S.C. §103(a) as Being Unpatentable Over U.S. Patent No. 4,172,331 to Becker in View of U.S. Patent No. 2,387,986 to Evans and U.S. Patent No. 3,584,385 to Booth**

Claims 39-50 have been rejected under 35 U.S.C. §103(a) as being unpatentable over the Becker '331 patent in view of the Evans '986 patent and the Booth '385 patent. The requirements for making a *prima facie* case of obviousness are described in MPEP §2143 as follows:

In order to establish a *prima facie* case of obviousness, three criteria must be met. M.P.E.P. § 706.02(j). Firstly, there must be some suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to modify the reference or to combine reference teachings. *In re Fine*, 5 U.S.P.Q.2d 1596 (Fed. Cir. 1988). Secondly, there must be a reasonable expectation of success. *In re Merck & Co., Inc.*, 231 U.S.P.Q. 375 (Fed. Cir. 1986). Thirdly, the prior art reference (or references) must teach or suggest all the claim limitations. *In re Royka*, 180 U.S.P.Q. 580 (C.C.P.A. 1974).

The teaching or suggestion to make the claimed combination and the reasonable expectation of success must both be found in the prior art, and not based on applicant's disclosure. *In re Vaeck*, 947 F.2d 488, 20 USPQ2d 1438 (Fed. Cir. 1991).

MPEP §2143.01 provides further guidance as to what is necessary in showing that there was motivation known in the prior art to modify a reference teaching. Specifically, MPEP §2143.01 states:

The mere fact that references can be combined or modified does not render the resultant combination obvious unless the prior art also suggests the desirability

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of the combination. *In re Mills*, 916 F.2d 680, 16 USPQ2d 1430 (Fed. Cir. 1990).

In proceedings before the Patent and Trademark Office, the Examiner bears the burden of establishing a prima facie case of obviousness based upon the prior art. *In re Fritch*, 23 USPQ 2d 1780, 1783 (Fed. Cir. 1992); M.P.E.P. §2142. Applicants respectfully assert that the Examiner has not yet met the Examiner's burden of establishing a prima facie case of obviousness with respect to the rejected claims. Consequently, the Examiner's rejection of the subject claims is inappropriate, and should be withdrawn.

#### Claim 39

Claim 39 depends from claim 1 and further defines the at least one alphanumeric locator as comprising at least two alphanumeric locators, the at least two alphanumeric locators being configured to fit within the opening of the template and be properly located in position by aligning the portion of each of the at least two alphanumeric locators with the scale of the template.

The prior art of record does not disclose or suggest the above noted features of claim 39. First, claim 39 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 39 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings. According to the Office Action:

It would have been obvious to one of our ordinary skill at the time the invention was made to modify the sign assembly of Becker and Evans to include a large opening in the template in which at least two alphanumeric locators can be positioned and slid, as taught by Booth, in order to further personalize the sign assembly by allowing the user to space the alphanumeric locators at a range of different locations.

Paragraph 5, Page 13 of the Office Action mailed May 23, 2005.

The Booth '385 patent discloses a lettering guide 10 comprising a frame 12 having a pair of frame bars 20, 22. Stencil plates 16 and spacer plates 18 are inserted into either a

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notch 30 or an opening 32 of the frame 12 and slid along grooves 28 in the frame bars 20, 22 to position the stencil plates 16 and the spacer plates 18. However, there is no suggestion or motivation for adding an opening in the template of any combination of the Becker '331 patent and the Evans '986 patent in which the guides 70 can be positioned and slid. The stencil plates 16 and the spacer plates 18 of the Booth '385 patent have to be slid along the grooves 28 because the stencil plates and spacer plates 18 can only be inserted into the frame 12 through the notch 30 or the opening 32. If the frame 12 did not have the notch 30 or the opening 32 as the only access to the frame 12, the stencil plates 16 and the spacer plate 18 would not have to be slid in the frame 12. Accordingly, since a combination of the Becker '331 patent and the Evans '986 patent does not have any grooves as the only access for the guides 70, there is no suggestion or motivation for inserting two guides into any one opening.

Furthermore, the Booth '385 patent does not teach allowing a user to space alphanumeric locators at a range of different locations. As illustrated in FIG. 1, all of the stencil plates 16 abut against the end cross member 24, against each other, or against a spacer plate 18. Furthermore, all of the stencil plates 16 and the spacer plates 18 are the same size. Therefore, the Booth '385 patent teaches that the stencil plates 16 and the spacer plates 18 are in fixed locations once assembled and used. In fact, the Booth '385 patent specifically teaches the use of the spacer plates 18 so that the stencil plates 16 stay in their fixed locations during use. Hence, the Booth '385 patent only teaches placing stencil plates 16 and spacer plates 18 in fixed locations, not at a range of different locations. Since the Becker '331 patent and the Evans '986 patent already have the guides at fixed locations, the Becker '331 patent and the Evans '986 patent already accomplish the teaching of the Booth '385 patent. Therefore, there is no suggestion or motivation for combining the Becker '331 patent, the Evans '986 patent and the Booth '385 patent as set forth in the Office Action. Accordingly, claim 39 is in condition for allowance.

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#### Claim 40

Claim 40 depends from claim 1 and further defines that the at least one alphanumeric locator can slide within the opening of the template to align the portion of the at least one alphanumeric locator with the scale of the template.

The prior art of record does not disclose or suggest the above noted features of claim 40. First, claim 40 depends from claim 1, and since claim 1 defines unobvious patentable subject matter as discussed above, claim 40 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 40 is in condition for allowance.

#### Claim 41

Claim 41 depends from claim 13 and further defines the at least one alphanumeric locator as comprising at least two alphanumeric locators, the at least two alphanumeric locators being configured to fit within the opening of the template and be properly located in position by aligning the portion of each of the at least two alphanumeric locators with the scale of the template.

The prior art of record does not disclose or suggest the above noted features of claim 41. First, claim 41 depends from claim 13, and since claim 13 defines unobvious patentable subject matter as discussed above, claim 41 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 41 is in condition for allowance.

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#### Claim 42

Claim 42 depends from claim 13 and further states that the at least one alphanumeric locator can slide within the opening of the template to align the portion of the at least one alphanumeric locator with the scale of the template.

The prior art of record does not disclose or suggest the above noted features of claim 42. First, claim 42 depends from claim 13, and since claim 13 defines unobvious patentable subject matter as discussed above, claim 42 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 42 is in condition for allowance.

#### Claim 43

Claim 43 depends from claim 24 and further defines the at least one alphanumeric locator as comprising at least two alphanumeric locators, the at least two alphanumeric locators being configured to fit within the opening of the template and be properly located in position by aligning the portion of each of the at least two alphanumeric locators with the scale of the template.

The prior art of record does not disclose or suggest the above noted features of claim 43. First, claim 43 depends from claim 24, and since claim 24 defines unobvious patentable subject matter as discussed above, claim 43 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 43 is in condition for allowance.

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#### Claim 44

Claim 44 depends from claim 24 and further states that the at least one alphanumeric locator can slide within the opening of the template to align the portion of the at least one alphanumeric locator with the scale of the template.

The prior art of record does not disclose or suggest the above noted features of claim 44. First, claim 44 depends from claim 24, and since claim 24 defines unobvious patentable subject matter as discussed above, claim 44 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 44 is in condition for allowance.

#### Claim 45

Claim 45 depends from claim 34 and further defines locating at least one alphanumeric locator within the opening of the template as comprising locating at least two alphanumeric locators within the opening of the template.

The prior art of record does not disclose or suggest the above noted features of claim 45. First, claim 45 depends from claim 34, and since claim 34 defines unobvious patentable subject matter as discussed above, claim 45 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 45 is in condition for allowance.

#### Claim 46

Claim 46 depends from claim 34 and further defines aligning the portion of the at least one alphanumeric locator with the scale of the template as comprising sliding the at least one alphanumeric locator within the opening of the template.

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The prior art of record does not disclose or suggest the above noted features of claim 46. First, claim 46 depends from claim 34, and since claim 34 defines unobvious patentable subject matter as discussed above, claim 46 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 46 is in condition for allowance.

#### Claim 47

Claim 47 depends from claim 36 and further defines locating at least one alphanumeric locator within the opening of the template as comprising locating at least two alphanumeric locators within the opening of the template.

The prior art of record does not disclose or suggest the above noted features of claim 47. First, claim 47 depends from claim 36, and since claim 36 defines unobvious patentable subject matter as discussed above, claim 47 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 47 is in condition for allowance.

#### Claim 48

Claim 48 depends from claim 36 and further defines aligning the portion of the at least one alphanumeric locator with the scale of the template as comprising sliding the at least one alphanumeric locator within the opening of the template.

The prior art of record does not disclose or suggest the above noted features of claim 48. First, claim 48 depends from claim 36, and since claim 36 defines unobvious patentable subject matter as discussed above, claim 48 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the



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art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 48 is in condition for allowance.

#### Claim 49

Claim 49 depends from claim 38 and further defines locating at least one alphanumeric locator within the opening of the template as comprising locating at least two alphanumeric locators within the opening of the template.

The prior art of record does not disclose or suggest the above noted features of claim 49. First, claim 49 depends from claim 38, and since claim 38 defines unobvious patentable subject matter as discussed above, claim 49 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 49 is in condition for allowance.

#### Claim 50

Claim 50 depends from claim 38 and further defines aligning the portion of the at least one alphanumeric locator with the scale of the template as comprising sliding the at least one alphanumeric locator within the opening of the template.

The prior art of record does not disclose or suggest the above noted features of claim 50. First, claim 50 depends from claim 38, and since claim 38 defines unobvious patentable subject matter as discussed above, claim 50 defines patentable subject matter. Second, in regard to the first criterion of obviousness, there is no suggestion or motivation, either in the references themselves or in the knowledge generally available to one of ordinary skill in the art, to combine the reference teachings as discussed above in regard to claim 39. Accordingly, claim 50 is in condition for allowance.

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Conclusion

Each appealed claim recites features that are not disclosed in any of the cited references and it would not have been obvious to modify the cited references to include the recited features of the appealed claims. The references upon which the Examiner relies in the Examiner's rejection of the twice rejected claims does not disclose or suggest a plaque system as claimed. Applicant's invention resolves problems and inconveniences experienced in the prior art, and therefore represents a significant advancement in the art. Applicant earnestly requests that the Examiner's rejection of claims 1-9, 12-20, 23-31 and 34-50, inclusive, be reversed, and that the application be passed to issuance forthwith.

Respectfully submitted,

8/11/05  
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### **Appendix of Claims (37 CFR §1.192(c)(9))**

1. A sign system assembly comprising:
  - a frame having a face;
  - a template adapted to fit against the face in an accurate position thereon, the template having an opening therethrough and a scale thereon;
  - at least one alphanumeric locator configured to fit within the opening of the template and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template, the at least one alphanumeric locator having an aperture therethrough; and
  - an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having an adhesive backing;
  - wherein each aperture has a perimeter corresponding to a periphery of at least one alphanumeric symbol; and
  - wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and adhering the alphanumeric symbol to the face of the frame.
2. The sign system assembly of claim 1, wherein:
  - the frame includes a ridge extending from the face of the frame; and
  - the template is adapted to abut against the ridge to be fixed in position on the face of the frame.
3. The sign system assembly of claim 2, wherein:
  - the ridge defines a closed border.
4. The sign system assembly of claim 3, wherein:
  - the ridge defines an oval interior space; and

the template includes an oval boundary corresponding to the oval interior space defined by the ridge of the frame.

5. The sign system assembly of claim 1, wherein:  
the opening in the template includes at least two parallel sides.
6. The sign system assembly of claim 5, wherein:  
the scale is located adjacent two opposite sides of the at least two parallel sides.
7. The sign system assembly of claim 6, wherein:  
the scale comprises a plurality of marks along each of the two opposite sides signifying a distance from a center point of the scale.
8. The sign system assembly of claim 6, wherein:  
the at least one alphanumeric locator includes at least two parallel edges, the at least two parallel edges of the at least one alphanumeric locator having an edge distance therebetween approximately equal to a side distance between the two opposite sides of the opening in the template, whereby the at least one alphanumeric locator can be easily and accurately placed into position within the opening in the template.
9. The sign system assembly of claim 1, wherein:  
the at least one alphanumeric locator comprises a plurality of alphanumeric locators.
10. A sign system assembly comprising:  
a frame having a face;  
a template adapted to fit against the face in an accurate position thereon, the template having an opening therethrough and a scale thereon;  
at least one alphanumeric locator configured to fit within the opening of the template

and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template, the at least one alphanumeric locator having an aperture therethrough; and

an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having an adhesive backing;

wherein each aperture has a perimeter corresponding to a periphery of at least one alphanumeric symbol; and

wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and adhering the alphanumeric symbol to the face of the frame; and

a panel comprising an outer margin, the template and a guide;

wherein the template is removably connected to the outer margin and the guide is removably connected to the template.

11. The sign system assembly of claim 10, wherein:

the panel includes first perforations defining a first interface between the outer margin and the template and second perforations defining a second interface between the template and the guide, the second perforations defining the opening in the template whereby the opening is formed by removing the guide.

12. The sign system assembly of claim 1, wherein:

the alphanumeric symbol includes double sided tape on a rear side thereof defining the adhesive backing.

13. A sign making system assembly for a frame having a face comprising:

a template adapted to fit against the face in an accurate position thereon, the template having an opening therethrough and a scale thereon;

at least one alphanumeric locator configured to fit within the opening of the template

and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template, the at least one alphanumeric locator having an aperture therethrough; and

an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having an adhesive backing;

wherein each aperture has a perimeter corresponding to a periphery of at least one alphanumeric symbol; and

wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and connecting the alphanumeric symbol to the face of the frame.

14. The sign system assembly of claim 13, wherein:

the template is adapted to abut against a ridge extending from the face of the frame to be fixed in position on the face of the frame.

15. The sign system assembly of claim 14, wherein;

the template includes an oval boundary configured to correspond to an oval interior space defined by the ridge of the frame.

16. The sign system assembly of claim 13, wherein:

the opening in the template includes at least two parallel sides.

17. The sign system assembly of claim 16, wherein:

the scale is located adjacent two opposite sides of the at least two parallel sides.

18. The sign system assembly of claim 17, wherein:

the scale comprises a plurality of marks along each of the two opposite sides signifying a distance from a center point of the scale.

19. The sign system assembly of claim 17, wherein:

the at least one alphanumeric locator includes at least two parallel edges, the at least two parallel edges of the at least one alphanumeric locator having an edge distance therebetween approximately equal to a side distance between the two opposite sides of the opening in the template, whereby the at least one alphanumeric locator can be easily and accurately placed into position within the opening in the template.

20. The sign system assembly of claim 13, wherein:

the at least one alphanumeric locator comprises a plurality of alphanumeric locators.

21. A sign making system assembly for a frame having a face comprising:

a template adapted to fit against the face in an accurate position thereon, the template having an opening therethrough and a scale thereon;

at least one alphanumeric locator configured to fit within the opening of the template and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template, the at least one alphanumeric locator having an aperture therethrough; and

an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having an adhesive backing;

wherein each aperture has a perimeter corresponding to a periphery of at least one alphanumeric symbol; and

wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and connecting the alphanumeric symbol to the face of the frame; and

a panel comprising an outer margin, the template and a guide;

wherein the template is removably connected to the outer margin and the guide is removably connected to the template.

22. The sign system assembly of claim 21, wherein:

the panel includes first perforations defining a first interface between the outer margin and the template and second perforations defining a second interface between the template and the guide, the second perforations defining the opening in the template whereby the opening is formed by removing the guide.

23. The sign system assembly of claim 13, wherein:

the alphanumeric symbol for each alphanumeric locator includes double sided tape on a rear side thereof defining the adhesive backing.

24. A sign making system assembly for placing alphanumeric symbols on a frame having a face, the assembly comprising:

a template adapted to fit against the face of the frame in an accurate position thereon, the template having an opening therethrough and a scale thereon; and

at least one alphanumeric locator configured to fit within the opening of the template and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template, the at least one alphanumeric locator having an aperture therethrough, each aperture having a perimeter configured to correspond to a periphery of at least one alphanumeric symbol;

wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and connecting the alphanumeric symbol to the face of the frame.

25. The sign making system assembly of claim 24, wherein:

the template is adapted to abut against a ridge extending from the face of the frame to be fixed in position on the face of the frame.



26. The sign system assembly of claim 25, wherein:  
the template includes an oval boundary configured to correspond to an oval interior space defined by the ridge of the frame.
27. The sign system assembly of claim 24, wherein:  
the opening in the template includes at least two parallel sides.
28. The sign system assembly of claim 27, wherein:  
the scale is located adjacent two opposite sides of the at least two parallel sides.
29. The sign system assembly of claim 28, wherein:  
the scale comprises a plurality of marks along each of the two opposite sides signifying a distance from a center point of the scale.
30. The sign system assembly of claim 28, wherein:  
the at least one alphanumeric locator includes at least two parallel edges, the at least two parallel edges of the at least one alphanumeric locator having an edge distance therebetween approximately equal to a side distance between the two opposite sides of the opening in the template, whereby the at least one alphanumeric locator can be easily and accurately placed into position within the opening in the template.
31. The sign system assembly of claim 24, wherein:  
the at least one alphanumeric locator comprises a plurality of alphanumeric locators.
32. A sign making system assembly for placing alphanumeric symbols on a frame having a face, the assembly comprising:  
a template adapted to fit against the face of the frame in an accurate position thereon, the template having an opening therethrough and a scale thereon; and

at least one alphanumeric locator configured to fit within the opening of the template and be properly located in position by aligning a portion of the at least one alphanumeric locator with the scale of the template, the at least one alphanumeric locator having an aperture therethrough, each aperture having a perimeter configured to correspond to a periphery of at least one alphanumeric symbol;

wherein the alphanumeric symbol can be accurately positioned on the face of the frame by inserting the alphanumeric symbol through the aperture having the corresponding perimeter and connecting the alphanumeric symbol to the face of the frame; and

a panel comprising an outer margin, the template and a guide;

wherein the template is removably connected to the outer margin and the guide is removably connected to the template.

33. The sign system assembly of claim 32, wherein:

the panel includes first perforations defining a first interface between the outer margin and the template and second perforations defining a second interface between the template and the guide, the second perforations defining the opening in the template whereby the opening is formed by removing the guide.

34. A method of accurately making a sign comprising:

providing a frame having a face;

providing a template with a scale thereon;

providing an opening through the template;

placing the template in position against the face of the frame;

providing at least one alphanumeric locator, the at least one alphanumeric locator having an aperture therethrough;

locating the at least one alphanumeric locator within the opening of the template and aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator;

providing an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having a periphery corresponding to a perimeter of the aperture of one of the at least one alphanumeric locator;

inserting the alphanumeric symbol through the aperture in one of the at least one alphanumeric locator; and

connecting each alphanumeric symbol to the face of the frame.

35. The method of accurately making a sign of claim 34, further including:  
adhering double sided tape to the alphanumeric symbol.

36. A method of accurately making a sign with a frame having a face, the method comprising:

providing a template with a scale thereon;

providing an opening through the template;

placing the template in position against the face of the frame;

providing at least one alphanumeric locator, the at least one alphanumeric locator having an aperture therethrough;

locating the at least one alphanumeric locator within the opening of the template and aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator;

providing an alphanumeric symbol for each alphanumeric locator, each alphanumeric symbol having a periphery corresponding to a perimeter of the aperture of one of the at least one alphanumeric locator;

inserting the alphanumeric symbol through the aperture in one of the at least one alphanumeric locator; and

connecting each alphanumeric symbol to the face of the frame.

37. The method of accurately making a sign of claim 36, further including:  
adhering double sided tape to the alphanumeric symbol.

38. A method of accurately aligning at least one alphanumeric symbol on a face of a frame to make a sign, the method comprising:

providing a template with a scale thereon;

providing an opening through the template;

placing the template in position against the face of the frame;

providing at least one alphanumeric locator, the at least one alphanumeric locator having an aperture therethrough;

locating the at least one alphanumeric locator within the opening of the template and aligning a portion of the at least one alphanumeric locator with the scale of the template to accurately position the at least one alphanumeric locator;

providing each aperture with a perimeter corresponding to a periphery of at least one alphanumeric symbol;

inserting the alphanumeric symbol through the aperture in one of the at least one alphanumeric locator; and

connecting the at least one alphanumeric symbol to the face of the frame.

39. The sign system assembly of claim 1, wherein:

the at least one alphanumeric locator comprises at least two alphanumeric locators; and

the at least two alphanumeric locators are configured to fit within the opening of the template and be properly located in position by aligning the portion of each of the at least two alphanumeric locators with the scale of the template.

40. The sign system assembly of claim 1, wherein:

the at least one alphanumeric locator can slide within the opening of the template to align the portion of the at least one alphanumeric locator with the scale of the template.

41. The sign making system of claim 13, wherein:

the at least one alphanumeric locator comprises at least two alphanumeric locators; and  
the at least two alphanumeric locators are configured to fit within the opening of the template and be properly located in position by aligning the portion of each of the at least two alphanumeric locators with the scale of the template.

42. The sign system assembly of claim 13, wherein:

the at least one alphanumeric locator can slide within the opening of the template to align the portion of the at least one alphanumeric locator with the scale of the template.

43. The sign making system assembly of claim 24, wherein:

the at least one alphanumeric locator comprises at least two alphanumeric locators; and  
the at least two alphanumeric locators are configured to fit within the opening of the template and be properly located in position by aligning the portion of each of the at least two alphanumeric locators with the scale of the template.

44. The sign making system assembly of claim 24, wherein:

the at least one alphanumeric locator can slide within the opening of the template to align the portion of the at least one alphanumeric locator with the scale of the template.

45. The method of claim 34, wherein:

locating at least one alphanumeric locator within the opening of the template comprises  
locating at least two alphanumeric locators within the opening of the template.

46. The method of claim 34, wherein:

aligning the portion of the at least one alphanumeric locator with the scale of the  
template comprises sliding the at least one alphanumeric locator within the opening of the  
template.

47. The method of claim 36, wherein:

locating at least one alphanumeric locator within the opening of the template comprises  
locating at least two alphanumeric locators within the opening of the template.

48. The method of claim 36, wherein:

aligning the portion of the at least one alphanumeric locator with the scale of the  
template comprises sliding the at least one alphanumeric locator within the opening of the  
template.

49. The method of claim 38, wherein:

locating at least one alphanumeric locator within the opening of the template comprises  
locating at least two alphanumeric locators within the opening of the template.

50. The method of claim 38, wherein:

aligning the portion of the at least one alphanumeric locator with the scale of the  
template comprises sliding the at least one alphanumeric locator within the opening of the  
template.

**Evidence Appendix (35 USC §41.37(c))**

There was no evidence submitted during this application under 37 CFR §1.130, 1.131 or 1.132 or any evidence entered by the Examiner and replied upon by Appellant in the appeal.

**Related Proceedings Appendix (35 USC §41.37(c))**

There are no related appeals or interferences pending during this application.